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Docket No.: PA-0042 US

1637

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By: 

Printed: Jeannie G. Labra

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hopkins et al.

Title: GENES REGULATED IN ACTIVATED T CELLS

Serial No.: 10/002,600

Filing Date: October 25, 2001

Examiner: Strzelecka, T.

Group Art Unit: 1637

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TRANSMITTAL FEE SHEET

Sir:

Transmitted herewith are the following for the above-identified application:

1. Return Receipt Postcard; and
2. Response to Restriction Requirement (4 pp.).

The fee has been calculated as shown below:

Claims	Claims After Amendment	-	Claims Previously Paid For	=	Present Extra	Other Than Small Entity Rate	Fee	Additional Fee(s)
Total	20	-	20	=	0	x\$18.00		\$.00
Indept.	3	-	3	=	0	x\$86.00		\$.00
First Presentation of Multiple Dependent Claims:						+\$290.00		\$.00
Total Fee:								\$.00

<input checked="" type="checkbox"/>	No additional Fee is required.		
<input type="checkbox"/>	Please charge Deposit Account No. 09-0108 in the amount of:	\$.00

The Commissioner is hereby authorized to charge any additional fees required under 37 C.F.R. § 1.16 and § 1.17, or credit overpayment to Deposit Account No. 09-0108. A duplicate copy of this sheet is enclosed.

Respectfully submitted,
INCYTE CORPORATION

Date:

December 22, 2003



David G. Streeter

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Doc No. 118004

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10/002,600



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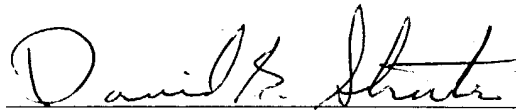
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By:  Printed: Jeannie G. Labra

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hopki et al.

Title: GENES REGULATED IN ACTIVATED T CELLS

Serial No.: 10/002,600

Filing Date: October 25, 2001

Examiner: Strzelecka, T.

Group Art Unit: 1637

Mail Stop Non-Fee Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. 121

Sir:

This paper is responsive to the Restriction Requirement and Request for Election dated November 28, 2003, setting a 30-day/one (1) month term for response.

REMARKSRestriction Requirement

The Examiner stated that each Group detailed below reads on patentably distinct Groups drawn to multiple SEQ ID Numbers. The sequences are patentably distinct because they are unrelated sequences, further restriction is applied to each Group. For an elected Group drawn to amino acid or nucleic acid sequences, Applicants must further elect a single amino acid or nucleic acid sequence (MPEP 803.04)

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1-4 and 10-12) drawn to a combination comprising a plurality of cDNAs and an isolated cDNA, vector and host cell containing the cDNA.

Group II (claims 5-7) drawn to a method for detecting differential expression of polynucleotides by hybridization.

Group III (claims 8 and 9) drawn to a method of screening for ligands binding to cDNA.

Group IV (claim 13) drawn to a method for producing a protein by culturing a host cell.

Group V (claim 14) drawn to a protein.

Group VI (claim 15 and 16) drawn to using a protein to screen for ligands which bind to the protein.

Group VII (claim 17) drawn to an antibody which binds to the protein.

Group VIII (claims 18 and 19) drawn to a method of using the protein to produce polyclonal antibodies.

Group IX (claim 20) drawn to using an antibody to detect protein in a sample.

The Examiner further stated that process claims that are commensurate in scope with allowed product claims will be rejoined. See "Guidance on Treatment of Product and Process Claims in light of *In re Ochiai*, *In re Brouwer* and U.S.C. § 103(b)," 1184 O.G. 86 (March 26, 1996).

Applicants hereby elect, with traverse, to prosecute Group I, which includes and is drawn to Claims 1-4 and 10-12 . Applicants further elect SEQ ID NO:50 for examination of these

claims, again with traverse. The Examiner's attention is drawn to the requirements in 1192 O.G. 68 (November 16, 1996) and MPEP 803.04 that address the instant case in which claims to both individual nucleotide sequences recited in alternative form, such as instant claims 10-12, and combinations of nucleotide sequences, such as in instant claims 1-4, are presented:

In applications containing all three claims set forth in examples 1-3, **the PTO will require restriction of the application to ten sequences for initial examination purposes.** Based upon the finding of allowable sequences, claims limited to the allowable sequences as in example 1, all combinations, such as in examples 2 and 3, containing the allowable sequences and any patentably indistinct sequences will be rejoined and allowed.

Rejoinder will be permitted for claims requiring any allowable sequence(s). Any claims which have been restricted and nonselected and which are limited to the allowable sequence(s) will be rejoined and examined. (Emphasis added)

Accordingly, applicants should be permitted in the current circumstances to select up to ten sequences relative to the examination of claims 1-4 and 10-12 of Group I. Applicants therefore select SEQ ID NOs:3, 7, 19, 20, 21, 24, 30, 31, 46 and 50 relative to the examination of claims 1-4 and 10-12. Applicants request reconsideration of the Restriction Requirement and, in accordance with 1192 O.G. 68 and the MPEP § 803.04, examination SEQ ID NOs:3, 7, 19, 20, 21, 24, 30, 31, 46 and 50 relative to claims 1-4 and 10-12. Claim 10 will be amended at the appropriate time to limit the claimed sequences recited to the elected sequences.

Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

CONCLUSION

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,

INCYTE CORPORATION

Date:

December 22, 2003 David G. Streeter

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